

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

SEP - 8 2004

Cameron S. Burke
Clerk, Idaho

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 PEDRO DUENAS-RIVERA, aka)
 JOSE DIAZ)
)
 Defendant.)
 _____)

Case No. CR-04-85-E-BLW

**ORDER GRANTING JOINT MOTION
FOR CONTINUANCE OF TRIAL**

The Court has before it the parties' Joint Motion for Continuance of Trial in the above-referenced matter. For the reasons set forth below, the Court will grant the motion.

Defendant was arraigned on April 28, 2004, and trial was set for June 14, 2004. On June 6, 2004, Defendant's attorney, David N. Parmenter, moved the Court for an order continuing the trial and allowing his withdrawal as counsel. The court granted these motions and trial was reset for August 30, 2004. On July 9, 2004, Defendant filed a Motion to Suppress Evidence. On August 16, 2004, the parties filed a signed Plea Agreement. On August 17, 2004, the Court entered a Notice vacating the trial and setting a Change of Plea Hearing for August 24, 2004. On August 23, 2004, the Court referred this matter to United

States Magistrate Judge Mikel H. Williams for purposes of taking Defendant's plea. On August 24, 2004, Judge Williams declined to accept Defendant's Plea. A hearing on Defendant's Motion to Suppress is set for October 1, 2004. In light of the foregoing, the parties jointly move the Court for an Order re-setting the trial for a date that will allow the parties to adequately prepare. Although the parties did not specify the length of the requested continuance in their motion, they have advised Court staff that a continuance of 60 days is needed.

After consideration of all relevant information and the circumstances of this case, the Court finds that pursuant to 18 U.S.C. § 3161(h)(8)(A), the ends of justice are best served by granting a continuance and outweigh the interests of the public and defendant in having this matter brought to trial sooner. The Court also finds that the failure to grant this continuance would deny defense counsel the time necessary for effective preparation for trial. 18 U.S.C. § 3161(h)(8)(B)(iv). The Court therefore finds that a continuance is necessary, that a continuance until November 8, 2004 is reasonable, and that the additional time caused by the continuance is excludable time.

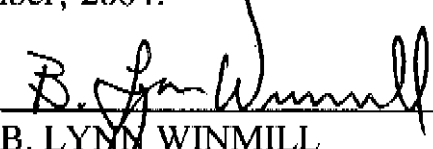
NOW THEREFORE IT IS HEREBY ORDERED that the Motion to Continue Trial (Docket No. 17) is GRANTED.

IT IS FURTHER ORDERED that this matter is set for trial on November 8, 2004 at 1:30 p.m. at the Federal Courthouse in Pocatello.

A pretrial conference shall be held with counsel and defendant present at the Federal Courthouse in Pocatello, Idaho, on October 28 , 2004 at 4:30 p.m.

The period of time between the prior trial date and the new trial be deemed excludable time under the Speedy Trial Act, 18 U.S.C. § 3161(h)(8)(A).

DATED this 8th day of September, 2004.



B. LYNN WINMILL
Chief Judge, United States District Court

United States District Court
for the
District of Idaho
September 8, 2004

* * CLERK'S CERTIFICATE OF MAILING * *

Re: 4:04-cr-00085

I certify that I caused a copy of the attached document to be mailed or faxed to the following named persons:

Michael Joseph Fica, Esq. 1-208-478-4175
US ATTORNEY
801 E Sherman
Pocatello, ID 83201

Pedro Duenas-Rivera
INTERPRETER
Brett Allison
599-3 John Adams Court
Idaho Falls, ID 83401

Scott H Hansen, Esq. 1-208-785-7080
BLASER SORENSEN & HANSEN
PO Box 1047
Blackfoot, ID 83221

U.S. Marshal
HAND DELIVERED

Probation
HAND DELIVERED

✓
____ Chief Judge B. Lynn Winmill
____ Judge Edward J. Lodge
____ Chief Magistrate Judge Larry M. Boyle
____ Magistrate Judge Mikel H. Williams

Visiting Judges:
____ Judge David O. Carter
____ Judge John C. Coughenour
____ Judge Thomas S. Zilly

Cameron S. Burke, Clerk

Date: 9-8-04

BY: *CSB*
(Deputy Clerk)